

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-220180 DATE: November 4, 1985
MATTER OF: Teqcom, Inc.

DIGEST:

1. Protest based on agency's failure to provide sufficient information for the submission of a proposal is untimely where the protest is not filed within 10 days after the closing date.
2. Protest concerning the evaluation of the protester's equipment must be filed no later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.

Teqcom, Inc., protests the issuance of purchase order No. N00189-85-M-1279 by the Department of the Navy to Analytics Communications Systems (ACS) for two Analytics Model TLC-100 Autodin interfaces. Teqcom complains that Navy personnel failed to act on Teqcom's request for information needed for the preparation of its proposal and that the Navy failed to evaluate Teqcom's devices properly. We dismiss the protest.

The Navy's June 21, 1985 transmittal of its Commerce Business Daily (CBD) synopsis for the purchase of these Autodin interfaces appeared in the CBD on July 3. It required, among other things, that the interfaces be "AFIS type"^{1/} and provided for the consideration of equivalent devices. The CBD notice called for offers within 30 days from the date of the notice, and stated that no solicitation document existed.

^{1/} This means the interfaces had to be Air Force Intelligence Service-certified, which requires approval by the Defense Intelligence Agency.

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By letter of July 12, Teqcom confirmed an earlier conversation with Navy contracting personnel; provided the Navy with a specific description of its Autodin interface unit; and requested "details and the configuration of the operation into which the unit would be installed" so it could determine a proposal price. On August 21, Teqcom phoned Navy contracting personnel to complain about not receiving a response to its earlier request. At that time, Teqcom learned that the purchase order had been issued to ACS.

The Navy, however, discovered that the purchase order was unsigned, and ordered ACS to disregard it, so that Teqcom's equipment description could be reviewed. Upon this review, which did not include any price consideration because Teqcom never had submitted a quotation, the Navy found that Teqcom's equipment lacked AFIS certification. On August 28, Teqcom was informed that its equipment was unacceptable, and ACS was reissued the purchase order. The Navy has continued performance of the contract notwithstanding Teqcom's September 5 protest to our Office, because the interfaces are essential for intelligence communications and delay in their pre-testing would be costly and disruptive to other contract schedules.

Teqcom initially argues that the Navy's failure to provide it with information prevented Teqcom from responding to the synopsis properly. We dismiss this protest ground as untimely.

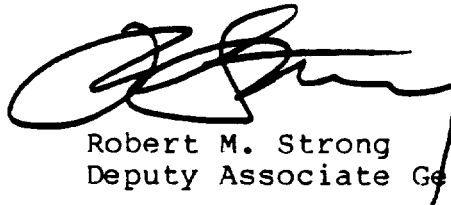
The July 3 CBD notice expressly called for a 30 day response period, as required by Federal Acquisition Regulation (FAR), 48 C.F.R. § 5.203(b) (1984). Hence, no proposal would be accepted after August 2. Under our Bid Protest Regulations, protests must be filed no later than 10 working days after the basis of the protest is known or should have been known, whichever is earlier. See 4 C.F.R. § 21.2(a)(2). Any protest based on the Navy's failure to provide information needed to submit a proposal therefore should have been filed within 10 days of August 2. See Dixie Business Machines, Inc., B-208968, Feb. 7, 1983, 83-1 C.P.D. ¶ 128. Teqcom's protest to our Office was received more than 1 month after this date, and even if we were to consider Teqcom's August 21 complaint to the Navy as an oral protest, that complaint was registered

almost 3 weeks after the August 2 response cut-off date. Under these circumstances, this protest issue is untimely and will not be considered.

Tegcom raises its second basis for protest in its comments to the Navy's administrative report, claiming that its unit meets two of the three categories of testing necessary for AFIS certification, and that final certification cannot be obtained without placement in a particular system configuration.

We dismiss these protest grounds also. The record shows that Tegcom knew by August 30 that the Navy rejected its equipment for lacking AFIS certification. Tegcom failed to protest this issue, however, until October 17, when it submitted its comments to the Navy's administrative report, so the issue is untimely. 4 C.F.R. § 21.2(a)(2). We further note that, although the Navy has had no opportunity to respond to this precise issue, the Navy states in its report that complete AFIS certification is required for successful testing of the Autodin network; ACS has this certification; and certification of Tegcom's equipment could take as long as 6 months to complete.

The protest is dismissed.



Robert M. Strong
Deputy Associate General Counsel